

## SENATE SUBSTITUTE TO HB 278

**AS PASSED SENATE****A BILL TO BE ENTITLED  
AN ACT**

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to provide for nepotism restrictions for eligibility for members of local boards of education and for local school superintendents; to amend Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local boards of education, so as to require the annual disclosure of expenditures by local boards of education; to provide for withholding of funds; to amend Article 5 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local school superintendents, so as to prohibit certain actions by local school superintendents; to amend Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the "Quality Basic Education Act," so as to provide for enrollment counts for students in certain dual enrollment programs; to provide for requirements for weighting of students in certain dual enrollment courses under the Quality Basic Education Formula; to temporarily waive certain expenditure controls relating to funds earned for direct instructional costs, media center costs, staff and professional development costs, and additional days of instruction; to amend Part 10 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to capital outlay funds under the "Quality Basic Education Act," so as to embed and extend a sunset date of June 30, 2011, for provisions relating to advance funding, exceptional growth, and low-wealth capital outlay grants; to amend an Act approved May 6, 2008 (Ga. L. 2008, p. 288), an Act approved April 9, 2001 (Ga. L. 2001, p. 148), and an Act approved April 22, 1999 (Ga. L. 1999, p. 400), relating to the automatic repeal of provisions relating to advance funding, exceptional growth, and low-wealth capital outlay grants; to provide for related matters; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 0.1**

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended by revising subsection (c) of Code Section 20-2-51, relating



to election of county board of education members, persons ineligible to be members or superintendent, ineligibility for local boards of education, and ineligibility for other offices, as follows:

"(c)(1) No person employed by or serving on the governing body of a private educational institution shall be eligible to serve as a member of a local board of education. No person employed by a local board of education shall be eligible to serve as a member of that board of education. No person employed by the Department of Education or serving as a member of the State Board of Education shall be eligible to serve as a member of a local board of education. This subsection paragraph shall not apply to institutions above the high school level.

(2) No person who has an immediate family member sitting on a local board of education or serving as the local school superintendent or as a principal, assistant principal, or system administrative staff in the local school system shall be eligible to serve as a member of such local board of education. As used in this paragraph, the term 'immediate family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent. This paragraph shall apply only to local board of education members elected or appointed on or after July 1, 2009. Nothing in this Code section shall affect the employment of any person who is employed by a local school system on or before July 1, 2009, or who is employed by a local school system when an immediate family member becomes a local board of education member for that school system."

## **SECTION 0.2**

Said chapter is further amended by revising subsection (b) of Code Section 20-2-101, relating to appointment of county school superintendents, as follows:

"(b)(1) No person shall be eligible to be appointed or employed as superintendent of schools of any county or independent school system unless such person is of good moral character, has never been convicted of any crime involving moral turpitude, and possesses acceptable business or management experience as specified by the Professional Standards Commission or the minimum valid certificate or a letter of eligibility for said certificate required by the Professional Standards Commission.

(2) No person shall be eligible to be appointed, employed, or to serve as superintendent of schools of any county or independent school system who has an immediate family member sitting on the local board of education for such school system or who has an immediate family member hired as or promoted to a principal, assistant principal, or system administrative staff on or after July 1, 2009, by that school system. As used in this subsection, the term 'immediate family member' shall have the same meaning as in subsection (c) of Code Section 20-2-51. Nothing in this Code section shall affect the



employment of any person who is employed by a local school system on or before July 1, 2009, or who is employed by a local school system when an immediate family member becomes the superintendent for that school system."

### SECTION 0.3

Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local boards of education, is amended by adding a new Code section to read as follows:

"20-2-72.

(a) Each local board of education shall annually disclose all expenditures, including, but not limited to, expenditures for association dues, advertising and public relations campaigns, mailing, research, analysis, and the compilation and dissemination of information, as well as salaries, administrative expenses, litigation expenses, website operation costs, meetings, conferences, recruitment activities, and media releases. Such disclosure may be accomplished by posting the school system's ledger in electronic form on the school system website. Such disclosure shall be made no later than July 31 of each year for the immediately previous fiscal year.

(b) The State Board of Education shall be authorized to initiate the provisions of Code Section 20-2-243, relating to withholding of funds, including specifically administrative funds for salaries pursuant to Code Section 20-2-186, if a local board of education does not comply with the requirements of this Code section."

### SECTION 0.4

Article 5 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local school superintendents, is amended by adding a new Code section to read as follows:

"20-2-101.1.

(a) A local school superintendent shall not be eligible to be employed by or be under contract for any education association, regional educational service agency, or the Department of Education or any other entity which represents or does business with the local school system which employed the superintendent until one year after the termination date of the superintendent's employment or leaving such office.

(b) A superintendent employed by or under contract with a local board of education shall be prohibited from registering as a lobbyist or engaging in lobbying under this article for a period of one year after terminating such employment or leaving such office."



**SECTION 1.**

Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the "Quality Basic Education Act," is amended by revising subsection (a) of Code Section 20-2-160, relating to determination of enrollment by institutional program, as follows:

"(a) The State Board of Education shall designate the specific dates upon which two counts of students enrolled in each instructional program authorized under this article shall be made each school year and by which the counts shall be reported to the Department of Education. The initial enrollment count shall be made after October 1 but prior to November 17 and the final enrollment count after March 1 but prior to May 1. The report shall indicate the student's specific assigned program for each one-sixth segment of the school day on the designated reporting date. No program shall be indicated for a student for any one-sixth segment of the school day that the student is assigned to a study hall; a noncredit course; a course recognized under this article or by state board policy as an enrichment course, except a driver education course; a course which requires participation in an extracurricular activity for which enrollment is on a competitive basis; a course in which the student serves as a student assistant to a teacher, in a school office, or in the media center, except when such placement is an approved work site of a recognized career or vocational program; an individual study course for which no outline of course objectives is prepared in writing prior to the beginning of the course; a course taken through the Georgia Virtual School pursuant to Code Section 20-2-319.1; or any other course or activity so designated by the state board. For the purpose of this Code section, the term 'enrichment course' means a course which does not dedicate a major portion of the class time toward the development and enhancement of one or more student competencies as adopted by the state board under Code Section 20-2-140. A program shall not be indicated for a student for any one-sixth segment of the school day for which the student is not enrolled in an instructional program or has not attended a class or classes within the preceding ten days; nor shall a program be indicated for a student for any one-sixth segment of the school day for which the student is charged tuition or fees or is required to provide materials or equipment beyond those authorized pursuant to Code Section 20-2-133. A student who is enrolled in an eligible institution under the program established in Code Section 20-2-161.1 may be counted for the high school program for only that portion of the day that the student is attending the high school for those segments that are eligible to be counted under this subsection. A student who is enrolled in a dual enrollment program other than as established in Code Section 20-2-161.1 shall be counted for the high school program or other appropriate program for each segment in which the student is attending the high school or attending a postsecondary course conducted at the high school, as long as the dual enrollment program is provided (1) at a charter school or



(2) at a high school pursuant to an agreement between the local school system and a postsecondary institution if such agreement has been approved by the State Board of Education. The state board shall adopt such regulations and criteria as necessary to ensure objective and true counts of students in state approved instructional programs. The state board shall also establish criteria by which students shall be counted as resident or nonresident students, including specific circumstances which may include, but not be limited to, students attending another local school system under court order or under the terms of a contract between two local school systems. If a local school system has a justifiable reason, it may seek authority from the state board to shift full-time equivalent program counts from the designated date to a requested alternate date."

## SECTION 2.

Said article is further amended in Code Section 20-2-161, relating to the Quality Basic Education Formula, by adding a new subsection to read as follows:

"(c.1) For purposes of calculating the annual allotment of funds to each local school system, a student who is enrolled in a dual enrollment program other than as established in Code Section 20-2-161.1 shall be counted for the high school program or other appropriate program for each segment in which the student is attending the high school or attending a postsecondary course conducted at the high school, as long as the dual enrollment program is provided (1) at a charter school or (2) at a high school pursuant to an agreement between the local school system and a postsecondary institution if such agreement has been approved by the State Board of Education."

## SECTION 3.

Said article is further amended in Code Section 20-2-167, relating to funding for direct instructional, media center, and staff development costs, by adding a new subsection to read as follows:

"(f)(1) For school years 2008-2009 and 2009-2010 only, the expenditure controls contained in subsection (a) of this Code section relating to direct instructional costs, media center costs, and staff and professional development costs shall be waived and shall not apply to nor be enforceable against a local school system.

(2) Each local school system shall report to the Department of Education its budgets and expenditures of the funds received pursuant to this Code section as a part of its report in October for the FTE count and on March 15.

(3) No penalty shall be applied to a local school system for failure to comply with expenditure controls set out in subsection (a) of this Code section that are contrary to this



subsection, notwithstanding any law to the contrary, as long as such local school system complies with this subsection.

(4) Nothing in this Code section shall be construed to repeal any other provision of this Code section or this chapter.

(5) This subsection shall be automatically repealed on July 1, 2010."

#### SECTION 4.

Said article is further amended by revising Code Section 20-2-184.1, relating to funding for additional days of instruction, as follows:

"20-2-184.1.

(a) The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, middle school, and remedial programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for instructors needed to provide 20 additional days of instruction for 10 percent of the full-time equivalent count of the respective program. Such funds shall be used for addressing the academic needs of low-performing students with programs including, but not limited to, instructional opportunities for students beyond the regular school day, Saturday classes, intersession classes, and summer school classes. Following the midterm adjustment, the state board shall issue allotment sheets for each local school system. Each local school system shall spend 100 percent of the funds designated for additional days of instruction for such costs at the system level. Up to 15 percent of funds designated for additional days of instruction may be spent for transportation costs incurred for transporting students who are attending the additional classes funded by these designated funds.

(b)(1) For school years 2008-2009 and 2009-2010 only, the expenditure controls contained in subsection (a) of this Code section relating to additional days of instruction shall be waived and shall not apply to nor be enforceable against a local school system.

(2) Each local school system shall report to the Department of Education its budgets and expenditures of the funds received pursuant to this Code section as a part of its report in October for the FTE count and on March 15.

(3) No penalty shall be applied to a local school system for failure to comply with expenditure controls set out in subsection (a) of this Code section that are contrary to this subsection, notwithstanding any law to the contrary, as long as such local school system complies with this subsection.



(4) Nothing in this Code section shall be construed to repeal any other provision of this Code section or this chapter.

(5) This subsection shall be automatically repealed on July 1, 2010."

#### SECTION 5.

Part 10 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to capital outlay funds under the "Quality Basic Education Act," is amended by revising subsection (h) of Code Section 20-2-260, relating to capital outlay funds generally, as follows:

"(h) A local school system may receive state capital outlay funds for one construction project under the advance funding category to meet educational facilities needs due to the following:

(1) Extraordinary growth of student population in excess of the capacity of existing facilities;

(2) Destruction of or damage to educational facilities by fire or natural disaster, limited by the provisions of paragraph (2) of subsection (f) of this Code section;

(3) Replacement of educational facilities which have been certified as hazards to health or safety;

(4) Projects, in priority order, which would otherwise require more than three years of the combined annual entitlement and required local participation amounts, estimated in accordance with the total entitlement intended for authorization by the State Board of Education; and

(5) Projects for consolidation of schools across local school system lines which have costs that exceed the combined annual entitlements of the participating local school systems. Such projects shall meet, with the exception of paragraph (2) of this subsection, the following conditions to qualify for advanced funding:

(A) The local school systems have specifically requested funding under this subsection prior to submission of the annual budget request for the state board to the General Assembly;

(B) Annual entitlements accrued under subsection (g) of this Code section have offset any advanced funding previously granted, except that no more than three years of combined entitlements of the participating local school systems shall be required to offset advance funding for consolidation projects pursuant to paragraph (5) of subsection (e) of this Code section;

(C) The projects to be funded are not in addition to projects funded for local school systems under the provisions of subsection (g) of this Code section in a given year; and



(D) The required local participation and all other procedural requirements of this Code section are met.

This subsection shall be automatically repealed on June 30, 2011."

#### **SECTION 5A.**

Said part is further amended in Code Section 20-2-260, relating to capital outlay funds generally, by adding a new paragraph to subsection (j) to read as follows:

"(7) This subsection shall be automatically repealed on June 30, 2011."

#### **SECTION 5B.**

Said part is further amended in Code Section 20-2-262, relating to low-wealth capital outlay grants to local school systems, by adding a new subsection to read as follows:

"(e) This Code section shall be automatically repealed on June 30, 2011."

#### **SECTION 5C.**

(1) An Act approved May 6, 2008 (Ga. L. 2008, p. 288), is amended by repealing Section 1 of such Act in its entirety.

(2) An Act approved April 9, 2001 (Ga. L. 2001, p. 148), is amended by repealing Section 21 of such Act in its entirety.

#### **SECTION 5D.**

(1) An Act approved May 6, 2008 (Ga. L. 2008, p. 288), is amended by repealing Section 2 of such Act in its entirety.

(2) An Act approved April 9, 2001 (Ga. L. 2001, p. 148), is amended by repealing Section 23 of such Act in its entirety.

(3) An Act approved April 22, 1999 (Ga. L. 1999, p. 400), is amended by striking in its entirety Section 2 and inserting in lieu thereof a new Section 2 to read as follows:

#### **"SECTION 2.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval ~~and shall be automatically repealed on June 30, 2002."~~

#### **SECTION 6.**

All laws and parts of laws in conflict with this Act are repealed.